

MILPERSMAN 1910-702

GENERAL GUIDANCE FOR SEPARATION AUTHORITIES (SA)

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References	(a) SECNAVINST 5820.4G
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1. Separation Authority (SA)

a. The SA is the individual who makes the final retention or separation decision. Depending on the reason for processing and the circumstances of the case, the SA will be:

(1) Commanding officer (CO) (Special Court-Martial Convening Authority (SPCMCA)),

(2) General Court-Martial Convening Authority (GCMCA),

(3) Navy Personnel Command (NAVPERSCOM), Enlisted Performance and Separations Section (PERS-4832) or Reserve Enlisted Personnel Section (PERS-4913) as appropriate, or

(4) Secretary of the Navy (SECNAV) (via NAVPERSCOM (PERS-4832 or PERS-4913) as appropriate).

b. Any SA can refer a case to NAVPERSCOM for action. This can be useful if unique circumstances are present.

2. Deliberating Final Action. In deliberating final action, SAs should understand:

a. They may not approve findings and characterization recommendations less favorable to the respondent than those rendered by an administrative board.

b. If SAs find legal prejudice to a substantiated right of the respondent or that the board's findings were obtained by fraud or collusion, the case may be referred to a new board made up of all new members. The new board may not make findings/recommendations less favorable than the member's previous board unless the SA finds that fraud or collusion in the previous board is attributable to the respondent or to individuals acting on the respondent's behalf (witness, counsel, etc.).

c. Members confined in foreign jails may be processed for separation, but may not be discharged or separated from the service until the completion of imprisonment and return to the United States (U.S.). In unusual cases, (i.e., life sentence without possibility of parole) separations may be authorized by SECNAV. Reference (a) refers.

d. They will ensure maximum recoupment of bonuses and debts to the government prior to separation, where appropriate.

e. In every case in which characterization of service Under Other Than Honorable Conditions is recommended, the record of the board's proceedings will be reviewed by a judge advocate or civilian attorney employed by the Navy prior to action by the SA. Such review is not required when another characterization (Honorable, General, or Entry Level) is recommended unless the respondent identifies specific legal issues for consideration by the SA.

3. When Conflicting Recommendation Exists

a. If an administrative board finds the member committed the reason for processing and recommends retention, but the convening authority (CA) or GCMCA recommends separation, forward the case with written rationale to NAVPERSCOM for possible forwarding to SECNAV for final action.

b. If the board finds the member committed the reason for processing, but votes to retain, and the SA concurs, direct the CA to issue a NAVPERS 1070/613 (10/81), Administrative Remarks counseling/warning per MILPERSMAN 1910-202, outlining the deficiency, (i.e., the board's findings and recommendations).

c. If the board finds the member did not commit the reason for processing, and votes to retain, and the SA finds no errors in the board, the SA should advise the CA in writing that: "No further action on the case is considered appropriate because member's administrative board of (date) found member did not commit misconduct due to commission of a serious offense as evidenced by (nonjudicial punishment (NJP), NCIS report, etc.)."

d. Members may not be involuntarily held past their expiration of active obligated service (EAOS) for the purpose of administrative discharge processing. Therefore, all review actions must be done, discharge authorized, and the member separated as of 2359 the day of EAOS. If this can't be done, separate the member at EAOS with discharge as characterized by the service record review (see MILPERSMAN 1910-104). The CO may assign an RE-4 reenlistment code (not recommended for reenlistment) and document such action with a NAVPERS 1070/613.